

**REMARKS/ARGUMENTS**

Favorable reconsideration and allowance of the present application is respectfully requested. Claims 1-29 are pending in the above application, of which claim 1 is independent. By the above amendment, claims 30 and 31 have been cancelled without prejudice.

The Office Action dated February 24, 2010, has been received and carefully reviewed. In that Office Action, claims 1-6, 8-24 and 29 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ku in view of Shibata, claim 7 was rejected under 35 U.S.C. 103(a) as being unpatentable over Ku in view of Shibata and further in view of Hessari, claims 25-27 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ku in view of Shibata and further in view of Smith, and claim 28 was rejected under 35 U.S.C. 103(a) as being unpatentable over Ku in view of Shibata and further in view of Hashimoto. Each of these issues is addressed below, and reconsideration and allowance of claims 1-29 is respectfully requested in view of the following remarks.

**REJECTIONS UNDER 35 U.S.C. 102(b)**

Claims 30 and 31 were rejected under 35 U.S.C. 102(b) as being anticipated by Shibata. By the above amendment, claims 30 and 31 have been cancelled without prejudice.

**REJECTIONS UNDER 35 U.S.C. 103(a)**

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ku in view of Shibata. Claim 1 recites an installation arrangement for an air-conditioning system

with a heating apparatus having at least one housing in which air is fed in an at least partially predefined flow path and which has at least one heating apparatus and at least one actuating device. The heating apparatus is arranged in a first flow path and the actuating device is arranged at least partially in a second flow path. In at least a first position, the actuating device causes substantially all air in the flow path to flow through the first flow path and the heating apparatus. In at least a second position, the actuating device permits air to flow through the second flow path without restricting airflow through the first flow path. Ku includes a temperature regulating door 16 in front of a partition 17. Partition 17 includes a first hole 171 and a second hole 172. When temperature regulating door 16 uncovers first opening 171, it restricts air flow through second hole 172. Ku therefore does not show an actuating device, that, in a second position, permits air to flow through a second flow path without restricting air flow through the first flow path as recited in amended claim 1.

The Office Action acknowledges that at least the above underlined limitation is not shown by Ku. However, the Office Action asserts that it would have been obvious to modify Ku based on Shibata in order to produce the invention of claim 1. It is respectfully submitted that the Office Action has not identified the modification to Ku that is being proposed and has not provided a proper reason for making any modification to Ku. For these reasons, the rejection of claim 1 does not present a prima facie case of obviousness. Furthermore, the modification that the Office Action seems to be proposing would impermissibly change Ku's principle of operation and/or render Ku unsatisfactory for its intended purpose, and such modifications are not obvious according to the MPEP. Each of these points is addressed below.

Section 706.02(j) of the MPEP provides that in order to support a rejection under 35 U.S.C. 103(a), the examiner should identify "the proposed modification of the applied reference(s) necessary to arrive at the claimed subject matter...." In the present case, the difference between Ku and the invention of claim 1 is said to be the fact that Ku does not teach an actuating device that permits air to flow through a second flow path without restricting air flow through the first flow path. However, the modification proposed in the Office Action is "to modify the airflow path of Ku to include a cool air bypass." It is respectfully submitted that Ku already includes a cool air bypass in the form of hole 171. No modification to Ku is necessary to provide Ku with a cool air bypass.<sup>1</sup> Moreover, this modification has nothing to do with the limitation that is missing from Ku, namely, an actuating device that permits air flow through a second flow path without restricting air flow through a first flow path. The Office Action does not identify a modification to Ku that would produce the claimed invention and fails to satisfy at least this requirement of the MPEP, and for at least this reason, a prima facie case of obviousness has not been presented.

The Office Action also fails to present a proper reason for modifying Ku, as the reasons provided in the Office Action do not address any problem or change Ku in any desirable way. The first stated reason to modify Ku is to "allow cool air to bypass the heater." However, Ku already includes hole 171 to allow cool air to bypass the heater. No change to Ku is needed to achieve this end, and this does not constitute a reason for modifying Ku. The second reason for modifying Ku is to "provide the proper amount of temperature and humidity control of the air stream." Nothing in Ku suggests that

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<sup>1</sup> If the Office Action is proposing to provide Ku with a second cool air bypass, further explanation regarding how and why this should be done is respectfully requested.

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Ku's current configuration fails to provide a proper amount of temperature and humidity control. Furthermore, it is not clear why the examiner believes some change to Ku will provide better temperature and humidity control than Ku's current configuration. If the examiner continues to rely on this reason for modifying Ku, further explanation is requested. The last reason for modifying Ku is to provide "a comfortable environment" inside the vehicle. Again, nothing in Ku suggests that Ku fails to provide a comfortable environment inside the vehicle, and the record provides no reason to think that some change to Ku would provide a more comfortable environment inside the vehicle. A proper reason for modifying Ku has not been provided, a prima facie case of obviousness has not been presented, and claim 1 is submitted to be allowable over Ku for at least these reasons.

While not stated in the Office Action, it appears that the examiner is proposing that Ku's temperature regulating door 16 be replaced with a door that covers and uncovers hole 171. It is respectfully submitted, however, that nothing in the record suggests any reason for making such a modification, and, moreover, such a modification would impermissibly change the principle of operation of Ku, contrary to the provisions of MPEP 2143.01. Ku makes clear that the movement of temperature regulating door 16 opens hole 171 and closes hole 172 "at the same time" (paragraphs 0034 and 0035). The modification to Ku that is apparently being proposed, would change this operation to open and close hole 171 only. Furthermore, Ku's arrangement substantially prevents air from flowing through heater 42 during a cooling operation (paragraph 0034). The modification proposed by the examiner would force air to flow through Ku's heater core even when no heating is desired. The change thus appears

to render Ku less satisfactory for its intended purpose. No modification to Ku has been identified, but the modification that the Office Action seems to be proposing reduces the usefulness of Ku without providing any apparent benefit, and it therefore not obvious.

For the foregoing reasons, it is respectfully submitted that a prima facie case of obviousness has not been presented in connection with claim 1, and that to the extent some modification to claim 1 has been identified, the modification is not obvious. Claim 1 is submitted to be allowable over the art of record for at least these reasons. If the rejection of claim 1 is maintained, it is respectfully requested that the examiner 1) identify the modification to Ku that is being proposed, 2) provide a reason that one of ordinary skill in the art would have found it desirable to modify Ku in this manner and 3) explain why the modification does not change the principle of operation of Ku or render Ku less satisfactory for its intended purpose.

Claims 2-29 depend from claim 1 and are submitted to be allowable for at least the same reasons as claim 1.

#### REJECTIONS UNDER 35 U.S.C. 103(a)

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ku in view of Shibata and further in view of Hessari. Hessari does not address the shortcomings of Ku and Shibata discussed above in connection with claim 1. Claim 7 is therefore submitted to be allowable for at least the same reasons as claim 1.

Claims 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ku in view of Shibata and further in view of Smith. Claims 25-27 depend from claim 1. Smith does not address the shortcomings of Ku and Shibata discussed above in

connection with claim 1. Claims 25-27 are therefore submitted to be allowable for at least the same reasons as claim 1.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ku in view of Shibata and further in view of Hashimoto. Claim 28 depends from claim 1. Hashimoto does not address the shortcomings of Ku and Shibata discussed above in connection with claim 1. Claim 28 is therefore submitted to be allowable for at least the same reasons as claim 1.


### **CONCLUSION**

Each issue raised in the Office Action dated February 24, 2010, has been addressed, and it is believed that claims 1-29 are in condition for allowance. Wherefore, reconsideration and allowance of these claims is earnestly solicited. If the examiner believes that any additional changes would place the application in better condition for allowance, the examiner is invited to contact the undersigned attorney at the telephone number listed below.

*Deposit Account Authorization*

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 50-3828 and please credit any excess fees to such deposit account.

Respectfully submitted,



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